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09/375,081

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EXAMINER

MUNSON, GENE M

ART UNIT

PAPER NUMBER

2811

18

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/375,081

Applicant(s)

F. GONZALEZ ET AL

Examiner

G. MUNSON

Group Art Unit

2811

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☒ Responsive to communication(s) filed on 15 October 2003
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 15-19, 23, 33 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 15-19, 23, 33 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

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Examination is continued under 37 CFR 1.114.

Claim 33 is rejected under 35 U.S.C. 112, first and second paragraphs. The “by affecting said first and second source/drain regions” is unclear and does not appear to be described clearly in the specification. Moreover, the specification does not appear to identify any region as a “source/drain” region.

Claim 23 is rejected under 35 U.S.C. 112 second paragraph. The “second actual” gate does not have a clear antecedent basis.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 15, 17, 19, 23 and 33 are rejected under 35 U.S.C. 102 as shown by Rao '139. See Figures 2, 3, 5 with a “two gate transistor” which has “gate structure” 15 on a “first” oxide layer 22; “secondary” oxide layer 21; “spacer” comprising “second” gate 16; “first” contact 17; “second” contact 18; “first source/drain” region 12; “second source/drain” region 14. The “first” gate 15 and “second” gate 16 “cooperate to operate” the “single transistor” of Figure 3.

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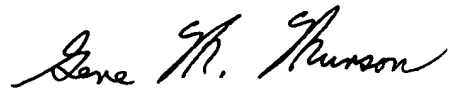
Claims 15-19, 23 and 33 are rejected under 35 U.S.C. 102 as shown by Rao '263. See Figures 2, 3, 5, 7, 8 with a "two gate transistor" (Figure 3) and a "three gate transistor" (Figure 8) which have "gate structure" 15 on a "first" oxide layer 22; "secondary" oxide layer 21, 23; "spacer" comprising "second" gate 16 and "third" gate 41; "first" contact 17; "second" contact 18; "third" contact 42; "first source/drain" region 12; "second source/drain" region 14. Compare Figure 3 of this application with Figure 8 of Rao. The "gate structure" 108, 110, insofar as claimed, corresponds to gate 15 of Rao; conductive gate "spacer" 118, insofar as claimed, corresponds to gates 16, 41 of Rao. The "first" gate 15, "second" gate 16 and "third" gate 41 "cooperate to operate" the "single transistor" of Figure 8.

The arguments in the remarks that accompany the preliminary amendment, filed 15 October 2003, have been considered but are not persuasive. The Rao patents show the transistor structure *insofar as claimed*. During patent examination, it is *not* proper to read limitations appearing in the specification into a claim when these limitations are not recited in the claim. Patent examination considers the structure corresponding to *what is claimed*. *In re Sovish*, 226 USPQ 771, 774 (Fed. Cir. 1985). Appellant's difficulty lies in the breadth of the claims. *Sovish*, 226 USPQ at 774.

No claim is allowed.

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1/29/04

  
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EXAMINER  
GROUP ART UNIT 2811